S.B.Cr.Misc. Bail App. No. 5450/2007

(Vinu @ Sharad Sharma Vs. State of Rajasthan)

Date of order : 15/11/2007

HON'BLE MR.H.R.PANWAR, J.

Mr. H.M.Saraswat for the petitioner.

Mr. Ashok Upadhyay, Public Prosecutor.

Heard learned counsel for the petitioner and the Public Prosecutor for the State. Perused the order impugned and challan papers.

It is contended by learned counsel for the petitioner that in her statement recorded under Section 161 Cr.P.C. the prosecutrix stated that she had been known to the petitioner for last more than three years and she at her own accompanied the petitioner to various places in the country. Learned counsel has invited my attention to the statement of the prosecutrix recorded by the police on 24.9.2007 wherein she stated that she went with the petitioner at her own and married to him in Arya Samaj and nothing has been done against her wishes. However, subsequently, in her statement recorded by the Judicial Magistrate on 29.9.2007 she alleged that she was taken in a Car by the petitioner and committed rape. However, she stated that she married to the petitioner at Ajmer and thereafter she has travelled with the petitioner in a bus to Jaipur, from Jaipur to Puna, Madras etc. Learned counsel for the petitioner submits that had she been forcibly taken, she had enough opportunity to complain about the forcible

taking away.

Be that as it may, having regard to the facts and circumstances of the case and the fact that in the earlier version recorded by the police, the prosecutrix has not levelled any allegation against the petitioner, without commenting on the merit of the case which may prejudice the case of either party, having considered the oral arguments advanced by both the parties, I think it just and proper to enlarge the accused petitioner on bail.

Accordingly, this bail application filed under Sec. 439 Cr.P.C. is allowed and it is directed that petitioner Vinu @ Sharad Sharma S/o Manmohan Sharma be released on bail in FIR No. 69/07 P.S. Bhawanda, district Nagaur, provided he executes a personal bond for a sum of Rs. 20,000/- with two sound and solvent sureties in the sum of Rs. 10,000/- each to the satisfaction of learned trial court for his appearance before that court on each and every date of hearing and whenever called upon to do so till the completion of the trial.

(H.R.PANWAR), J.

RP